

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

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|-------------------|---|-----------------|
| MICHAEL A. MAXIE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 3:09-CV-260 |
| |) | |
| WAL-MART STORE, |) | |
| |) | |
| Defendant. |) | |

OPINION AND ORDER

Michael A. Maxie, a *pro se* plaintiff, filed this case by completing a form complaint for a 42 U.S.C. § 1983 claim. (DE 1.) The same day, he also filed a motion for leave to proceed *in forma pauperis*. (DE 2.) I dismissed the Complaint without prejudice, permitting Maxie to refile his Complaint to correct the deficiencies. (DE 6, at 7.) Maxie filed an Amended Complaint, and his motion for leave to proceed *in forma pauperis* was reactivated. (DE 7; DE 8.) Upon review of the allegations in Maxie's Amended Complaint, he has not corrected the deficiencies, and therefore the Court must dismiss the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

In my order dismissing the Complaint without Prejudice, I concluded that on the facts Maxie presented, he did not state a claim for relief under Title VII, 42 U.S.C. § 1983, 42 U.S.C. § 1981, or 42 U.S.C. § 1983. I informed Maxie that the only way he could avoid dismissal would be to state a claim for relief in federal court through diversity jurisdiction. The Order stated that would have to allege a claim under a state law by showing that he and Wal-mart are not citizens of the same state and that the amount in controversy exceeds \$75,000.00.

Maxie's Amended Complaint fails to establish diversity jurisdiction. The Amended Complaint does not state that the amount in controversy exceeds \$75,000.00. It actually leaves out a dollar figure altogether. (DE 7, at 3.) Further, he does not allege that he and Wal-mart are citizens of different states. (DE 7, at 2.) Because Maxie did not allege the facts as instructed in my previous Order and does not allege any other facts that state a claim, the Amended Complaint does not present a federal or state law claim that this Court can decide.

CONCLUSION

For the foregoing reasons as well as the reasons stated in my previous Order dismissing this case without prejudice (DE 3), Maxie's reactivated motion for leave to proceed *in forma pauperis* (DE 8) is **DENIED**, and the case is **DISMISSED**.

SO ORDERED.

ENTERED: September 1, 2009

s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT